

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID ARTHUR DEPONTE,

Plaintiff,

v.

STOHL, STERN, J. SAUCEDO, K.
SUDANO, M. DOBE, GUNSAGA,

Defendants.

Case No. 1:24-cv-00695-KES-HBK

ORDER STRIKING PLAINTIFF’S NOTICES
TO THE COURT

(Doc. Nos. 23, 30, 31)

On June 17, 2024, Plaintiff filed a letter “to the Clerk.” (Doc. No. 23). In his five-page letter, he claims Officer Hileman is refusing to give him his legal mail. (*Id.* at 1). On June 25, 2024, Plaintiff filed a letter “to the Clerk.” (Doc. No. 30). With attachments, the letter is 27 pages in length. In his letter, Plaintiff claims that correctional officials are interfering with Plaintiff’s legal mail. (*See generally, Id.*). On June 27, 2024, Plaintiff filed a letter addressed “Att Clerk.” (Doc. No. 31). With attachments, the letter is 13 pages in length. Like the first and second letters, Plaintiff claims correctional officials are interfering with his legal mail. (*See generally, Id.*).

The Court previously struck a similar notice in its June 21, 2024 Order. (Doc. No. 25). In that Order, the Court advised Plaintiff that such filings are improper. (*Id.* at 3-4). Neither the Federal Rules of Civil Procedure nor the Local Rules provide for the right to file additional pleadings outside those described in Fed. R. Civ. P. 7 (a). To the extent Plaintiff wishes to

request relief from this Court, he must do so through a properly filed motion. Fed. R. Civ. P. 7(b). Letters addressed to the Clerk or to the Court do not qualify as a motion.

The Court has not yet conducted a screening of Plaintiff's First Amended Complaint. (Doc. No. 26, "FAC"). A preliminary review of the FAC indicates that Plaintiff is advancing a due process claim in connection with a Rules Violation Report he received. (*See generally, Id.*). To the extent Plaintiff believes correctional officials are interfering with Plaintiff's legal mail to give rise to a First Amendment violation, he must file a new civil rights action if he has exhausted his administrative remedies if he wishes to prosecute his claim. Nonetheless, the Court notes that none of the Court's Orders in this case have been returned as undeliverable. (*See generally* docket). Further, the Clerk has received 19 pleadings from Plaintiff in this case to date. Plaintiff is duly advised and warned that any future letters addressed to the Clerk, or to the Court, will be returned without filing.

Accordingly, it is hereby **ORDERED**:

1. The Clerk of Court is ordered to **STRIKE** Plaintiff's letters to the Clerk (Docs. Nos. 23, 30, and 31) from the docket.
2. **The Clerk of Court is directed to return to Plaintiff any further letters to the Clerk or Court without filing them on the docket.**
3. The Clerk of Court shall include a blank civil rights complaint form for Plaintiff use should he wish to file a new complaint regarding the alleged interference with his legal mail if appropriate. Plaintiff should accompany the complaint form with the \$402.00 filing fee or request to proceed *in forma pauperis*. Plaintiff should not use this case number on the complaint form. The Clerk will assign a new number once the complaint is received.

Dated: June 28, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE